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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/603,349	06/25/2003	David L. Graumann	P16485	9889
28062	7590	09/20/2006	EXAMINER	
BUCKLEY, MASCHOFF, TALWALKAR LLC			PENDLETON, BRIAN T	
5 ELM STREET			ART UNIT	
NEW CANAAN, CT 06840			PAPER NUMBER	
			2615	

DATE MAILED: 09/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/603,349

**Applicant(s)**

GRAUMANN, DAVID L.

**Examiner**

Brian T. Pendleton

**Art Unit**

2615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9-18, 27-36 and 40-42 is/are allowed.
- 6) ☒ Claim(s) 1, 8, 19, 26 and 37 is/are rejected.
- 7) ☒ Claim(s) 2-7, 20-25, 38 and 39 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 8, 19, 26, and 37 are rejected under 35 U.S.C. 102(b) as being anticipated by Basel, US Patent 6,341,166. Basel discloses an automatic correction of power spectral balance in audio source material comprising power spectrum analyzer 210 for analyzing an input audio signal to determine a power spectral density profile, equalizer settings compute unit 220 for comparing the power spectral density profile of the input audio signal with at least one template profile, the profile being the reference spectral balance data 212, and source correction equalization unit 240 for selectively attenuating frequency bands of the input audio signal. See figures 2 and 3 and column 4 line 28 – column 5 line 54. Claims 1, 8, 19, 26, and 37 are rejected.

Claims 1, 8, 19, 26, and 37 are rejected under 35 U.S.C. 102(b) as being anticipated by Op De Beek et al, US Patent 4,628,530. Op De Beek et al teach an automatic equalizing system comprising an audio input signal 2, frequency analysis unit 17 for analyzing the audio input signal to determine a power spectral density profile and for comparing the profile to at least one template profile, the template profile being the signal from microphone 14, and equalizing unit 4 for selectively attenuating frequency bands of the audio input signal 2. See figure 1 and column 9 lines 12-24. Claims 1, 8, 19, 26, and 37 are rejected.

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***Allowable Subject Matter***

Claims 2-7, 20-25, 38, and 39 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 9-18, 27-36, and 40-42 are allowed.

The following is a statement of reasons for the indication of allowable subject matter: The prior art of record does not disclose nor suggest adjusting the power spectral density profile to form an adjusted power spectral density profile and comparing the adjusted power spectral density profile with at least one template profile, as required by independent claims 9, 27, and 40. As a result, the claims and their dependents are allowed. Regarding the dependent claims 2, 20, and 38, there is no teaching or suggestion of a plurality of templates, as necessitated by the claims. The references of record teach a single reference or template. Therefore, the claims and their dependents are objected to.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian T. Pendleton whose telephone number is (571) 272-7527. The examiner can normally be reached on M-F 7-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivian Chin can be reached on (571) 272-7848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Brian T. Pendleton  
Primary Examiner  
Art Unit 2615



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